



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10**

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OFFICE OF  
ECOSYSTEMS, TRIBAL  
AND PUBLIC AFFAIRS

November 25, 2014

Tim A. Haugh, Environmental Program Manager  
US DOT Federal Highway Administration  
Alaska Division  
P.O. Box 21648  
Juneau, Alaska 99802-1648

RE: EPA comments on the Juneau Access Draft Supplemental Environmental Impact Statement (SEIS), EPA Project #92-091-FHW.

Dear Mr. Haugh:

We have reviewed the above-referenced EIS (CEQ No. 20140281) proposed for the Lynn Canal corridor in southeast Alaska. Our review was conducted in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act, as well as a NEPA cooperating agency. Section 309, independent of NEPA, specifically directs EPA to review and comment in writing on the environmental impacts associated with all major federal actions. Under our policies and procedures, we evaluate the document's adequacy in meeting NEPA requirements.

The draft SEIS proposes a no action alternative and seven action alternatives that include various proposals to provide improved surface transportation to and from Juneau, Alaska within the Lynn Canal corridor. This SEIS specifically updates the previous Final SEIS issued in 2006 in response to a 2009 District Court decision finding that the Final SEIS did not appropriately include evaluation of an alternative utilizing existing Alaska Marine Highway System (AMHS) assets. This supplement also provides additional and updated information pertaining to resources, alternatives and relevant analyses.

We recognize and appreciate that the Draft SEIS includes several components that we requested based on our review of the PDSEIS, namely, an Executive Summary, the inclusion of a functional assessment and proposed compensatory mitigation for affected wetlands (Appendix Z-2013 Update to Appendix O-Wetlands Technical Report). We also commend FHWA for clearly highlighting updated or changed information in the document.

We do, however, continue to object to the preferred alternative, Alternative 2B-East Lynn Canal, based on the same reasons we identified in our previous comments on past EISs. Alternative 2B would have the most environmental impacts, including significant adverse effects on special aquatic sites (e.g., wetlands and mud flats); essential fish habitat; critical habitat for endangered species (i.e., Steller sea lion); wildlife (e.g., bald eagle, brown bear, marten, mountain goat); and special areas (e.g., inventoried roadless areas, ANILCA Section 508 Berners Bay LUD II Management Area; and old growth forest reserves). We have specifically stated that we believe Alternatives 1, 3, 4A, 4B, 4C and 4D are environmentally preferable to Alternative 2B. We also assert this to be the case with the new alternative, Alternative 1B-Enhanced Service with Existing AMHS Assets.

In light of the 404(b)(1) Guidelines, only the least environmentally damaging practicable alternative (LEDPA) may be authorized for a Section 404 permit. We believe Alternatives 1, 1B, 3, 4A, 4B, 4C and 4D are all less environmentally damaging than Alternative 2B, and one or more of these alternatives to the proposed action may be practicable, and therefore, the LEDPA. However, the EIS states that these alternatives are not practicable due to the lower travel capacity compared to an unconstrained traffic forecast model. We believe that practicability should be reconsidered since unconstrained traffic is not currently possible (due to ferry segments in all alternatives) and options 1B, 3, 4A, 4B, 4C and 4D do substantially increase capacity between Juneau, Haines, and Skagway. Instead of measuring each alternative against a theoretical, unattainable standard (i.e., unconstrained demand), we recommend using the no action alternative as the baseline or benchmark, and then comparing each action alternative to the no action alternative.

The EPA has previously identified Berners Bay watershed as an ecologically important area due to the abundance and diversity of fish and wildlife which inhabit this area. We commend FHWA and ADOT&PF for incorporating a variety of mitigation measures into your preferred alternative to reduce impacts on aquatic resources in the Berners Bay area. However, we request the same level of effort to mitigate the adverse effects of Alternatives 3, 4B and 4D on Berners Bay. Therefore, we recommend that the Final SEIS consider the following mitigation measures (or an appropriate combination thereof) for Alternatives 3, 4B and 4D:

- 1) move the Sawmill Cove ferry terminal to a suitable site outside of Berners Bay (e.g., Tee Harbor, Amalga Harbor, Pearl Harbor, Yankee Cove, Sunshine Cove, Bridget Cove);
- 2) if that is not practicable, move the Sawmill Cove ferry terminal to Cascade Point and remove the road segment from Cascade Point to Sawmill Cove (see pages 10 and 24 of the "Draft Design Concept Report for the Day Boat ACF" and page 6 of the "Day Boat ACF Design Study Report");
- 3) move the Berners Bay ferry operations to the Auke Bay ferry terminal during the eulachon and herring spawning period, which is approximately two weeks in late April and early May (note that Alternatives 4B and 4D already meet this goal);
- 4) impose an AMHS ferry speed limit within Berners Bay during the eulachon and herring spawning period to reduce the risk of collision with humpback whales;
- 5) establish an AMHS ferry lane within Berners Bay that is at least one nautical mile from Point Bridget and Point Saint Mary to minimize adverse effects on herring spawning habitat, Steller sea lions and Point Bridget State Park; and
- 6) designate a trained marine mammal observer on board each Berners Bay ferry during the eulachon and herring spawning period.

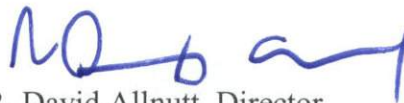
We request that FHWA, as the lead agency, arrange an interagency meeting with the cooperating agencies and other agency experts from NMFS, FWS and ADFG to discuss these mitigation measures prior to the Final SEIS and Record of Decision.

We have also previously stated that if these alternatives 1, 3, 4A 4B, 4C and 4D (and now 1B) are not practicable, we recommend changes to Alternative 2B, namely the relocation of the ferry terminal to the south side of the Katzechin River delta, thus eliminating the bridge crossing and road segment north of the Katzechin River. If this is not practicable, then we recommend avoiding the proposed discharge of 64,480 cubic yards of fill material into 3.15 acres on the south shore of the Katzechin River. This area appears to include mud flats that are functionally similar to the Berners Bay mud flats and the McClellan Flats (between the Chilkat River and Chilkat Inlet). Mud flats are special aquatic sites under the 404(b)(1) Guidelines (see 40 CFR 230.42), and as such, they are subject to the presumptive restrictions on discharge set forth at 40 CFR 230.10(a)(3).

We have assigned a rating of "EO" (Environmental Objections) to the Draft SEIS because: 1) there may be a practicable alternative to the proposed action which would have less adverse impact on the aquatic ecosystem [see 40 CFR 230.10(a)]; 2) the preferred alternative may result in the likelihood of the destruction or adverse modification of critical habitat under the ESA [see 40 CFR 230.10(b)]; 3) the preferred alternative may cause or contribute to significant degradation of the waters of the United States [see 40 CFR 230.10(c)]; and 4) appropriate and practicable steps may be taken which will minimize the potential adverse impacts on the aquatic ecosystem [see 40 CFR 230.10(d)]. We have changed the numeric rating from previous draft documents to a "1" (Adequate Information) due to the additional information presented in the current SEIS. A description of our rating system is enclosed.

Please contact Jennifer Curtis of my staff in Anchorage at (907) 271-6324 or [curtis.jennifer@epa.gov](mailto:curtis.jennifer@epa.gov) with any questions you have regarding our comments.

Sincerely,

A handwritten signature in blue ink, appearing to read "R. David Allnutt", with a stylized flourish at the end.

R. David Allnutt, Director  
Office of Ecosystems, Tribal and Public Affairs

Enclosure:

1. U.S. EPA Rating System

**U.S. Environmental Protection Agency Rating System for  
Draft Environmental Impact Statements  
Definitions and Follow-Up Action\***

**Environmental Impact of the Action**

**LO – Lack of Objections**

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

**EC – Environmental Concerns**

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

**EO – Environmental Objections**

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

**EU – Environmentally Unsatisfactory**

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

**Adequacy of the Impact Statement**

**Category 1 – Adequate**

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

**Category 2 – Insufficient Information**

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

**Category 3 – Inadequate**

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public

comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

\* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.